



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Adrian Supply Co.

File: B-225630.2

Date: May 7, 1987

DIGEST

1. Where invitation for bids requires descriptive literature, bidder's failure to submit descriptive literature with its bid renders the bid nonresponsive.
2. Award of a contract is not improper solely because a bidder did not receive a complete copy of the solicitation as long as there is adequate competition resulting in reasonable prices and there is no evidence of a conscious or deliberate intent on the part of the procuring agency to exclude a particular bidder from competition.
3. A nonresponsive bidder is not an interested party under GAO Bid Protest Regulations to protest the responsiveness of the awardees' bids where there are other bids which could be accepted, so that the protester does not have the requisite direct economic interest in the outcome of the matter.

DECISION

Adrian Supply Co. protests the awards of contracts for electric transformers to North Coast Electric and Central Moloney Transformers under invitation for bids (IFB) No. C-1515, a small business set-aside issued by the Department of the Interior.

Adrian asserts that its bid improperly was rejected for failure to contain descriptive literature, and that North Coast's and Central Moloney's bids were nonresponsive because Central Moloney certified that it was a large business, and North Coast proposed to supply goods manufactured by a large business. Adrian also claims bid preparation costs.

We deny the protest against the rejection of Adrian's bid and dismiss it as to the other bids. The claim is also denied.

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The IFB provided that descriptive literature was required to establish details of the product that the bidder intended to furnish to meet the specifications, with respect to design, materials, components, performance characteristics, and methods of manufacture, assembly, construction, or operation, in order to determine the technical acceptability of the product offered. The IFB also advised that failure to submit descriptive literature with a bid would require rejection of the bid. At bid opening on October 22, 1986, 15 bids were received, six of which were found responsive. Adrian's bid was rejected as nonresponsive for failure to include descriptive literature. Awards were made for various combinations of bid items to Central Moloney, Ermco, North Coast, and Disco-Allen Electrical Supply Co.

Adrian protests that it is entitled to award for those items for which it is the low bidder, but which were awarded to North Coast and Central Moloney. We have held that where an invitation advises bidders that descriptive literature is needed for bid evaluation and must be furnished before bid opening or the bid will be rejected, a bid submitted without the necessary descriptive material is nonresponsive and must be rejected. NJCT Corp., B-224246, Feb. 13, 1987, 87-1 C.P.D. ¶ 159; Miller Spreader Co., B-215467, July 23, 1984, 84-2 C.P.D. ¶ 89. Since Adrian did not furnish descriptive literature with its bid, we find that Interior properly rejected Adrian's bid as nonresponsive.

Adrian argues that the solicitation package which it received did not contain section "L" which requires the submission of descriptive literature. However, we have held that award of a contract is not improper solely because a bidder did not receive a complete copy of the solicitation, as long as there is adequate competition resulting in reasonable prices and there has been no deliberate attempt by the procuring agency to preclude a specific bidder from competing. Equipto Electronics Corp., B-220733, Oct. 29, 1985, 85-2 C.P.D. ¶ 485; Serv-air, Inc., B-216582, Jan. 16, 1985, 85-1 C.P.D. ¶ 42. In this case, there is no indication that Interior was aware that any bid package was incomplete. Further, as Interior points out, the table of contents appearing on the first page of the solicitation (Standard Form 33) indicates the inclusion of section "L." If this section was missing from Adrian's bid package, Adrian should have been aware of this from an examination of the bid package and made a request for same before bid opening. Moreover, other responsive bids, all within a narrow price range, were received.

Adrian also protests that North Coast's and Central Moloney's bids should have been rejected as nonresponsive. Adrian, however, is not an interested party under our Bid

Protest Regulations, 4 C.F.R. §§ 21.0(a) and 21.1(a) (1986), to raise this issue. Since Adrian was properly rejected as nonresponsive, and there are bidders other than North Coast and Central Moloney remaining in the competition which could be awarded the contracts if North Coast's and Central Moloney's contracts were terminated, Adrian lacks the requisite direct economic interest in the resolution of this matter. Johnson Moving & Storage Co., B-221826, Mar. 19, 1986, 86-1 C.P.D. ¶ 273.

The protest is denied in part and dismissed in part, and the claim for bid preparation costs is also denied.

for Seymour E. Van
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